

REMARKS

In response to the Final Office Action mailed on January 11, 2006, Applicants respectfully request reconsideration of the rejections in view of the Amendments and in light of the arguments presented below.

Appellant traverses the rejection of claims 1-4, 6-19, 21-27, 29 and 30 under 35 U.S.C. §103(a) over the asserted combination of U.S. Patent No. 6,341,160 (“Tverskoy”) and U.S. Patent Publication No. 2004/0072544 (“Alexis”) at page 3, paragraph 5 of the Final Office Action.

Claim 1 recites a messaging method that includes answering a call in a Voice over Internet Protocol (VoIP) format at a premises of the called party. Claim 11 recites a call answering mechanism operable to answer an incoming call in a Voice over Internet Protocol (VoIP) format and a Voice over Internet Protocol engine communicatively coupled to the network interface to process the incoming call. Claim 21 recites employing a messaging device to answering an incoming telephone call in a Voice over Internet Protocol (VoIP) format. Claim 29 recites a computer-readable medium having computer-readable data to answer an incoming telephone call in a Voice over Internet Protocol (VoIP) format from a calling party via an Internet protocol network.

Tverskoy fails to disclose or suggest that the answering machine answers calls in a Voice over Internet Protocol format, as recited by independent claims 1, 11, 21, and 29. Alexis is recited as disclosing a Voice over Internet Protocol call. *See Final Office Action*, p. 3, paragraph 5. However, neither Tverskoy nor Alexis disclose or suggest any motivation to modify the answering machine of Tverskoy with the Voice over Internet Protocol capability of Alexis.

The Final Office Action asserts that it would have been obvious to modify Tverskoy by “providing Voice over Internet Protocol calls as taught by Alexis so that cost for the call can be lowered when compared with conventional telephone calls.” *See Final Office Action*, p. 4, paragraph 5. However, the asserted motivation is not supported by the references.

Alexis discloses a device to facilitate usage of wireless or VoIP calling functionality via a base station, which allows a user to take advantage of reduced cost calling options, such as free or reduced cost nights and weekends for cellular users and such as low cost calling for VoIP calls. *See Alexis*, paragraphs 0005, 0081, and 0145. However, Alexis discloses that to utilize the system of Alexis, the called party does not have to have the system described herein to receive such calls. *See Alexis*, p. 6, paragraph 0049 (emphasis added). Thus, the cost savings suggested by Alexis accrues to the calling party, whether or not the called party has Voice over Internet Protocol capabilities. Thus, the suggested motivation is irrelevant to the answering machine of Tverskoy (*See Tverskoy*, Title and Abstract). Accordingly, there remains no motivation to make the asserted combination.

Additionally, the Final Office Action acknowledges that combining a VoIP feature with the answering machine of Tverskoy would not be obvious in light of Alexis. *See Final Office Action*, p. 10, paragraph 6. Specifically, the Final Office Action states:

the Examiner agrees that combining [sic] a VoIP feature to the answering machine [of Tverskoy] would not have been obvious in light of Alexis...

See Final Office Action, p. 10, paragraph 6, lines 4-5 (emphasis added).

In light of the admission in the Final Office Action, at page 10, that the asserted combination would not have been obvious, the recitation of claims 1, 11, 21 and 29, including answering the incoming call in a Voice over Internet Protocol format, would not have been obvious. Accordingly, the Final Office Action fails to establish a prima facie case of obviousness.

Claims 1, 11, 21, and 29 are allowable over the cited references, and dependent claims 2-4, 6-10, 12-19, 22-27, and 30 are allowable, at least by virtue of their dependency from one of allowable claims 1, 11, 21, and 29.

New claims 31-35 are added. Claim 31 recites that the computer-readable medium includes computer-readable data to prompt the calling party to include non-audio data. None of the cited references, alone or in combination, disclose or suggest, prompting the calling party to leave a message and to prompt the calling party to include non-audio data.

New independent claim 32 recites a messaging system including a network interface responsive to an Internet Protocol network to receive a call, a call answering mechanism to answer the call in a Voice over Internet Protocol (VoIP) format and to prompt the calling party to leave a message, a memory to store the message, the message comprising an audio portion and a non-audio portion, a messaging engine to compose an outgoing message including the stored message and to transmit the outgoing message to a remote messaging server, and a VoIP engine communicatively coupled to the network interface to process the call. None of the cited references, alone or in combination, disclose or suggest all of the elements of independent claim 32.

New claims 31-35 are allowable over the cited art.

CONCLUSION

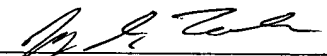
Applicant has pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the references applied in the Final Office Action. Accordingly, Applicants respectfully request reconsideration and withdrawal of each of the objections and rejections, as well as an indication of the allowability of each of the pending claims.

Any changes to the claims in this amendment, which have not been specifically noted to overcome a rejection based upon prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

Respectfully submitted,

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Date


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